

**2010 IBEW NEGOTIATIONS
CITY INITIAL PACKAGE PROPOSAL***

PERIOD OF MEMORANDUM OF AGREEMENT – ARTICLE 1

Term: One (1) Year

PAY

Effective the first payperiod of Fiscal Year 2010-2011, all classifications represented by IBEW will have each step reduced by 5%. This will result in the top and bottom step of all classifications represented by IBEW being 5% lower.

FREEZING STEP INCREASES

As Proposed on January 13, 2010 (City Proposal #17)

STAND BY/CALL BACK

As Proposed on January 20, 2010 (City Proposal #3)

HEALTH INSURANCE COST SHARING

As Proposed on January 28, 2010 (City Proposal #4)

HEALTH INSURANCE- HMO Plan Design

As Proposed on January 28, 2010 (City Proposal #5)

HEALTH INSURANCE DUAL COVERAGE

As Proposed on January 28, 2010 (City Proposal #6)

HEALTH INSURANCE- HEALTH IN LIEU

As Proposed on January 28, 2010 (City Proposal #7)

HOURS OF WORK AND OVERTIME

As Proposed on January 13, 2010 (City Proposal #8)

As Proposed on January 20, 2010 (City Proposal #9)

As Proposed on January 7, 2010 (City Proposal #10)

LEAVES OF ABSENCE

As Proposed on January 20, 2010 (City Proposal #11)

**2010 IBEW NEGOTIATIONS
CITY INITIAL PACKAGE PROPOSAL***

VACATION AND PERSONAL LEAVE

See Attached (City Proposal #12)

RETIREMENT COST MITIGATION

See Attached (City Proposal #14 and 15)

SICK LEAVE PAYOUT

As Proposed on January 28, 2010 (City Proposal #13)

PERFORMANCE APPRAISAL APPEALS

As Proposed on January 7, 2010 (City Proposal #18)

DISABILITY LEAVE SUPPLEMENT

As Proposed on January 13, 2010 (City Proposal #19 and 20)

RETIREMENT CLARIFICATION

As Proposed on January 7, 2010 (City Proposal #21)

SUBSTANCE ABUSE POLICY

As Proposed on January 7, 2010 (City Proposal #22)

SAFETY

See Attached (City Counter Proposal to Union Proposal)

HOUSEKEEPING

See Attached (Union Proposals on Recognition, Working In a Higher Classification and Employee Rights)

ALL TENTATIVE AGREEMENTS

** This proposal is submitted in an attempt to reach a settlement. In the event the proposal is not accepted, the City reserves the right to modify, amend and/or add proposals, including, but not limited to:*

- Revise step structure and modify movement within steps

CITY PROPOSAL #12- VACATION AND PERSONAL LEAVE- CLARIFICATION OF LANGUAGE

ARTICLE 17 VACATIONS AND PERSONAL LEAVE

17.1 Each eligible full-time employee shall be granted vacation leave with pay in accordance with the following:

17.1.1 ~~Full-time employees shall accrue vacation leave for paid hours in the amount specified below for each cycle of 26 full biweekly pay periods immediately preceding December 31st, or portion thereof, in each year of employment as specified: An employee shall accrue vacation leave at a rate specified below for each hour worked in each year of employment as specified. In no event shall an employee receive more than the annual hours of vacation earned in any payroll calendar year.~~

<u>Years of Service</u>	<u>Accrual Rate per paid hour</u>	<u>Annual Hours of Vacation earned if employee has 2080 paid hours</u>
First 5 years	0.03875038462	80 hours
6th - 10th year	0.05875057693	120 hours
11th and 12th year	0.06625065385	136 hours
13th and 14th year	0.07375073077	152 hours
15th year or more	0.08125080770	168 hours

17.1.2 ~~Carry-Over of Vacation Leave~~Vacation Accrual Limits

~~An employee may carry over to the next subsequent cycle of 26 biweekly pay periods, not more than 200 hours of unused vacation leave, together with any earned vacation leave which he/she is prevented from using in the former cycle, during which it is accrued, because of service-connected disability. An employee carrying over greater than the maximum allowable vacation hours (200 hours) shall have the excess amount deducted from the following year's accrual. This carryover process shall expire at the end of the 2008 payroll calendar year.~~

~~Effective the first pay period of payroll calendar year 2009, employees shall not be allowed to accrue vacation in excess of two times their annual vacation accrual rate. Once the maximum accumulation has occurred, vacation will cease to accrue until the employee's vacation balance has fallen under their maximum vacation accrual amount.~~

~~Effective the first pay period of payroll calendar year 2009, any employee who is already above two times their annual vacation accrual rate, will cease from accruing vacation until they have used enough vacation to bring them below their maximum accrual amount.~~

17.1.3 Reimbursement for Unearned Vacation Leave

~~If the employment of any full time employee should cease and if he/she should have taken more vacation leave than he/she had accrued at the time of termination of his/her employment, there shall be deducted from his/her final pay, or he/she shall refund to the City such pay as he/she shall have received for vacation leave theretofore taken by him/her. The provisions of this Subsection 17.1.2 shall not apply to any full-time employee whose~~

~~employment by the City is terminated by reason of his/her death, or his/her entry into active duty with any of the Armed Forces of the United States that is reasonably likely to exceed one (1) year in duration. This Section, Section 17.1.3, shall not be in effect after the last pay period of payroll calendar year 2008.~~

17.1.4 Payment for Unused Accrued Vacation Leave upon Termination of Employment

If the employment by the City of any full-time employee should cease, he/she shall be given, at the time of such termination, full pay for vacation leave which he/she may then have accrued and not used.

17.2 Vacation Pay

~~If, in the judgment of the City Manager it is desirable by reason of a shortage of staffing or increased volume of work, to permit any full-time employee to work for the City during the time ordinarily allocated to such employee for vacation purposes, he/she may authorize such work. An employee who elects to perform such additional work shall be entitled to receive, as additional compensation for such work, an amount of money equal to his/her regular pay for such hours of work if such were not rendered during vacation leave, or, in lieu thereof, he/she may elect, in writing, filed with the Office of Employee Relations, to carry over such leave to the subsequent cycle of 26 biweekly pay periods.~~

17.3 Vacation Leave

Any and all leaves granted pursuant to this Article shall be granted at such time or times as will not reduce the number of employees below that which is reasonably necessary for the efficient conduct of the public business of such Department, except no employee who is authorized to take a leave for vacation purposes shall be required to commence such leave at a time other than the beginning of a workweek, unless he/she elects or consents to commence such leave at another and different time. Subject to the above provisions, preference of vacation leave timing in any calendar year shall be given in order of seniority. For purposes of this section "seniority" shall be determined by the relative length of time served by each employee in the classification in which he/she is employed in a Department of the City government, and by the length of time during which such employee has worked on any shift, if more than one shift is worked by employees in such classification.

17.4 Computation of Vacation Leave

17.4.1 For purposes of this Article, paid leave of absence from duty by reason of sick leave, holiday leave, vacation leave, disability leave, compensatory time-off, personal leave, or any other paid leave, shall be deemed to be "time worked."

17.4.2 Prior periods of employment shall be credited to the employee for purposes of determining vacation eligibility provided that during each such prior employment period, the employee achieved permanent status.

17.5 Personal Leave

Effective the first pay period of each payroll year, each full time employee shall be entitled to a maximum of sixteen (16) hours of Personal Leave. ~~Effective the first pay period of payroll calendar year 2009, each full-time employee shall be entitled to a total of twenty-four (24) hours per payroll calendar year. Such leave may be scheduled in fifteen minute increments, at any time, subject to~~

approval of the supervisor. Personal Leave is not accrued. Any such leave not taken by the date of termination for employees terminating during the year, or by the end of the last pay period in the calendar year for other employees, shall not be paid out nor carried over to subsequent years. Under no circumstances, such as promotion, transfer, and/or rehire, shall an employee receive more than ~~46~~ 24 hours of Personal Leave in any given calendar year ~~(24 hours effective the first pay period of payroll calendar 2009).~~

- 17.5.1 ~~Employees hired on or after July 1 shall be entitled to only eight (8) hours of personal leave in the first payroll calendar year of employment. Effective the first pay period of payroll calendar year 2009, f~~Full time employees hired on or after July 1 of each payroll calendar year shall be entitled to only twelve (12) hours in the payroll calendar year in which they were hired.

CITY PROPOSALS #14 AND 15- RETIREMENT COST MITIGATION

ARTICLE 25 RETIREE HEALTHCARE FUNDING

(Current Article 25 and subsequent articles to be re-numbered)

- 25.1 The City and the Union agree to transition from the current partial pre-funding of retiree medical and dental healthcare benefits (referred to as the "policy method") to pre-funding of the full Annual Required Contribution (ARC) for the retiree healthcare plan ("Plan"). The transition shall be accomplished by phasing into fully funding the ARC over a period of five (5) years beginning June 28, 2009. The Plan's initial unfunded retiree healthcare liability shall be fully amortized over a thirty year period so that it shall be paid by June 30, 2039 (closed amortization). Amortization of changes in the unfunded retiree healthcare liability other than the initial retiree healthcare liability (e.g. gains, losses, changes in actuarial assumptions, etc.) shall be determined by the Plan's actuary. The City and Plan members (active employees) shall contribute to funding the ARC in the ratio currently provided under Section 3.28.380 (C) (1) and (3) of the San Jose Municipal Code. Specifically, contributions for retiree medical benefits shall be made by the City and members in the ratio of one-to-one. Contributions for retiree dental benefits shall be made by the City and members in the ratio of eight-to-three. When determining the contribution rates for the Plan, the Plan actuary shall continue to use the Entry Age Normal (EAN) actuarial cost method and a discount rate consistent with the pre-funding policy for the Plan as outlined in this Article.
- 25.2 The City and the Union further agree that the Municipal Code and/or applicable plan documents shall be amended in accordance with the above agreement and that the Union will support such amendments.
- 25.3 It is understood that in reaching this agreement, the parties have been informed by cost estimates prepared by the Federated City Employees' Retirement System Board's actuary and that the actual contribution rates to reach full pre-funding of retiree healthcare will differ. The phase-in to the ARC shall be divided into five steps (using a straight line method), each to be effective on the first pay period of the City's fiscal year in each succeeding year. The first increment of the phase-in shall be effective on June 28, 2009. It is understood that because of changes resulting from future actuarial valuations, the amount of each increase may vary upward or downward. The City and Employee Organization agree that the Plan member cash contribution rate shall not have an incremental increase of more than .75% of pensionable pay in each fiscal year and the City cash contribution rate shall not have an incremental increase of more than .75% of pensionable pay in each fiscal year. For example, if the members' contribution rate is 4% of pensionable pay, the subsequent fiscal year's contribution rate for retiree healthcare cannot exceed 4.75% of pensionable pay. Notwithstanding the limitations on the incremental increases, by the end of the five year phase-in, the City and plan members shall be contributing the full Annual Required Contribution in the ratio currently provided under Section 3.28.380 (C) (1) and (3) of the San Jose Municipal Code.
- 25.4 The City will establish a qualified trust ("Trust") before June 27, 2010. Until such time as a Trust is established, the City and employee contributions under this agreement shall be made into the existing Medical Benefits Account for as long the contributions can be made into the Medical Benefits Account in accordance with IRS limitations. If the Trust

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is not established prior to reaching the IRS limitation, the parties agree to meet and discuss alternative funding vehicles.

- 25.5 It is the objective of the parties that the Trust created pursuant to this agreement shall become the sole funding vehicle for Federated retiree healthcare benefits, subject to any legal restrictions under the current plan, or other applicable law.

ARTICLE 9 FULL UNDERSTANDING, MODIFICATION AND WAIVER

- 9.5 Notwithstanding the provisions of Article 9.4 and Article 24, the City may notify the Union in writing once during the term of this Agreement of its desire to reopen negotiations regarding retiree healthcare benefits. Upon such notice being given, the duly authorized representatives of the parties shall meet and confer in good faith in an effort to reach a mutual agreement with respect to retiree healthcare benefits. If no agreement is reached, the parties will follow the impasse procedures set forth in the City of San Jose's Employer-Employee Relations Resolution (#39367) and the Meyers-Milias-Brown Act. The parties understand that this means that, notwithstanding any other provision of this agreement, the City will have the right to unilaterally implement in the event that no agreement is reached at the conclusion of negotiations and mandatory impasse procedures. The parties also agree that, after declaration of impasse with respect to negotiations over a modification of retiree healthcare benefits, if the City provides notification of implementation, the Union has the right to engage in protected concerted activities on the employees' own time provided such protected concerted activities do not impede the performance of the employees' assigned duties. Protected concerted activities shall not include strikes, partial strikes (such as refusing to work overtime, engaging in a slowdown or accepting some work tasks and refusing to perform others), intermittent strikes and sit-down strikes.

9.5 Healthcare Cost Mitigation.

- 9.5.1 Notwithstanding any other provision of this Agreement, the parties agree to commence meeting and conferring between January 1, 2011, and January 19, 2011, on retiree healthcare benefits for future employees, a medical reimbursement program for future retirees and pension benefits for current and future employees.
- 9.5.2 The parties intend to engage in the foregoing negotiations in a coalition bargaining process with all other interested represented bargaining units, if any. However, negotiations between the City and Union shall commence no later than January 19, 2011 with or without participation of any other bargaining unit. The City and Union shall negotiate in good faith in an effort to reach a mutual agreement.
- 9.5.3 If no agreement is reached, the parties will follow the impasse procedures set forth in the City of San Jose's Employer-Employee Relations Resolution (#39367) and the Meyers-Milias-Brown Act. The parties understand that this means that, notwithstanding any other provision of this agreement, the City will have the right to unilaterally implement in the event that no agreement is reached at the conclusion of negotiations and mandatory impasse procedures. The City agrees

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that a unilateral implementation of retiree healthcare benefits and/or pension benefits shall not be effective before July 1, 2011.

SIDE LETTER AGREEMENT

BETWEEN

THE CITY OF SAN JOSE

AND

THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS (IBEW)

SAFETY

The purpose of this agreement is to establish future meetings to discuss Citywide standards and goals for safety and safe working practices for Electrical workers.

Prior to August 1, 2010, the City agrees to establish a committee to discuss NFPA 70E Standards.

These discussions will also include representatives from the Office of Employee Relations and Human Resources, including the City's Safety Officer. The group will meet on a monthly basis.

FOR THE CITY:

FOR THE EMPLOYEE ORGANIZATION:

Jennifer Schembri Date
Senior Executive Analyst

Sal Ventura Date
IBEW

UNION PROPOSAL- HOUSEKEEPING

ARTICLE 2 RECOGNITION

- 2.1 Pursuant to Resolution #39367 of the City Council of the City of San Jose and the provisions of applicable State law, the International Brotherhood of Electrical Workers Union, Local No. 332, hereinafter referred to as the Union is recognized as the exclusive representative for the purpose of meeting and conferring on matters within the scope of representation for employees assigned to the classifications listed in Exhibit I attached and incorporated by reference into this Agreement. The classifications listed in Exhibit I and subsequent additions thereto or deletions there from shall constitute an appropriate unit.
- 2.2 The City agrees to meet and confer with the International Brotherhood of Electrical Workers Union, Local #332, prior to contracting out work currently performed by bargaining unit members whenever such contracting out would result in material reduction of work done by bargaining unit members or would have significant adverse impact on bargaining unit work. It is agreed that position reductions, which result in lay-off of one or more employees in the bargaining unit constitute significant impact on bargaining unit work.
- 5.3.3 As an alternative to making appointments to a vacant position, a Department may, upon the approval of the Office of the City Manager, assign an employee to work in a higher classification for a period of time not to exceed six (6) months. The employee will be compensated in accordance with section 5.3.2. At the expiration of the period of assignment, the assigned employee shall return to his/her regular assignment. The Department may then request authorization to fill the position on a regular basis or return it to vacant status. Department Directors are encouraged to review all situations wherein employees are working in a higher class to determine if those functions are necessary to the organization and should be continued. If the functions are no longer necessary, the position should be eliminated. ~~This shall apply to employees who are represented by the IBEW.~~

7.7.1 Employee Rights

- 7.7.1.1 The City and the Union recognize the right of employees to form, join and participate in lawful activities of employee organizations and the equal, alternative right of employees to refuse to form, join and participate in employee organizations. Neither party shall discriminate against an employee in the exercise of these alternative rights.
- 7.7.1.2 Accordingly, membership in the Union shall not be compulsory. An employee has the right to choose, either; (a) to become a member of the Union; or, (b) to pay to the Union a fee for representation services; or, (c) to refrain from either of the above courses of action upon the grounds set forth in Section 7.8.6 below.